

# RURAL VOICES

## WORKING TOWARD ACCESS FOR ALL

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Fair Housing Act

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Dear Friends,

If you've read any housing news recently, you've undoubtedly heard that the Fair Housing Act was signed into law on April 11, 1968, fifty years ago. You've heard that it protects against seven bases for discrimination: race, color, national origin, religion, sex, disability, and familial status. You've heard that it requires state and local governments that receive federal funding to "affirmatively further fair housing" – to take proactive steps towards inclusive communities. And you've heard that, unfortunately, the U.S. still needs the Fair Housing Act.

Safe and affordable homes, free of discrimination, should be equally accessible to all. This edition of *Rural Voices* explores the state of fair housing half a century after the Act's adoption and includes contributions from a federal agency, national nonprofits, and practitioners in the field.

The articles in this issue speak to the importance of the Fair Housing Act in fostering a society that values equal access to safe and affordable housing in all communities. That is the world HAC envisions, and those are prominent among the principles that underlie our work and yours.

The Fair Housing Act alone is not enough, however. Fair lending protections are important. Protections against discrimination based on gender, age, sexual preference, sexual identity, source of income, criminal history, and probably other grounds as well, are needed. Vigilant enforcement is essential.

Working towards equality is more important than ever, not only because it is the right thing to do but also because research shows children's life chances are deeply impacted by the neighborhoods where they grow up. Forbidding discrimination and segregation in homes and neighborhoods through enforcement of the Act leads to inclusive and equitable rural communities, where all residents can thrive. While the Fair Housing Act faces frequent setbacks, progress is gradual. There is more work to do.

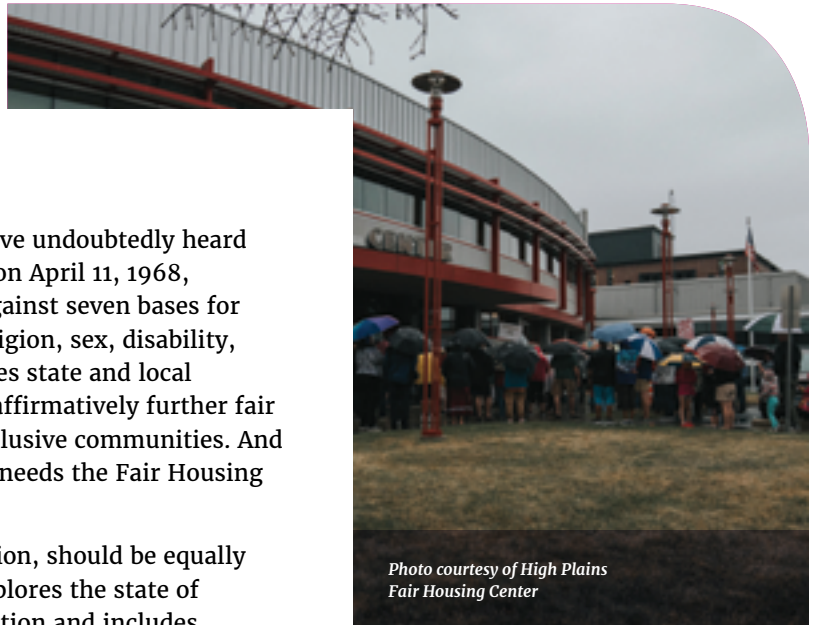


Photo courtesy of High Plains Fair Housing Center

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## A View From Washington

# HUD's Fair Housing Office *Combating Discrimination*

By Anna María Fariás

In a nation founded on the principles of justice and equality, it is unacceptable for anyone to be denied the housing of their choice.

Since its creation more than 50 years ago, the U.S. Department of Housing and Urban Development (HUD) has gained a reputation for being an “urban department.” And while it’s true that much of HUD’s work takes place in large metropolitan areas, the Trump Administration is committed to improving the housing and living conditions of every resident of this great nation, including the 60 million individuals who live in rural communities.

By every social and economic measure, our country’s rural communities have experienced significant change over the past several decades. In these once sparsely populated areas sustained by agriculture and manufacturing, the largest segment of today’s rural civilian workforce is

employed in the education, health care, and social service industries.

Another 11 percent is employed in the retail sector, and a smaller share is employed in the finance, wholesale trade, and information industries.

Despite this unprecedented variety of jobs in the new rural economy, the one thing that binds its residents with persons in every community is the need for decent housing. Housing is the great common denominator that enables individuals and families to have a sense of dignity and to feel grounded.

I saw firsthand the stability and security housing provides as a young child growing up in public



U.S. Dept. of Housing and Urban Development,  
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**Assistant Secretary Farías speaks during Fair Housing Month program.**



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**HUD Secretary Ben Carson (left) and former Secretaries Carla Hills, Alphonso Jackson, and Steve Preston reflect on the importance of the Fair Housing Act.**

housing in Crystal City, TX. My mother was a single parent who worked as a live-in maid, so we didn't have much. But at the center of our lives was the place we called home – the anchor that provided the foundation upon which we could strive to obtain a better life.

HUD Secretary Ben Carson often speaks of how housing is more than just where we live, and how it affects other aspects of our lives, including health, education, and access to jobs. This makes it even more critical that no one is unfairly denied housing.

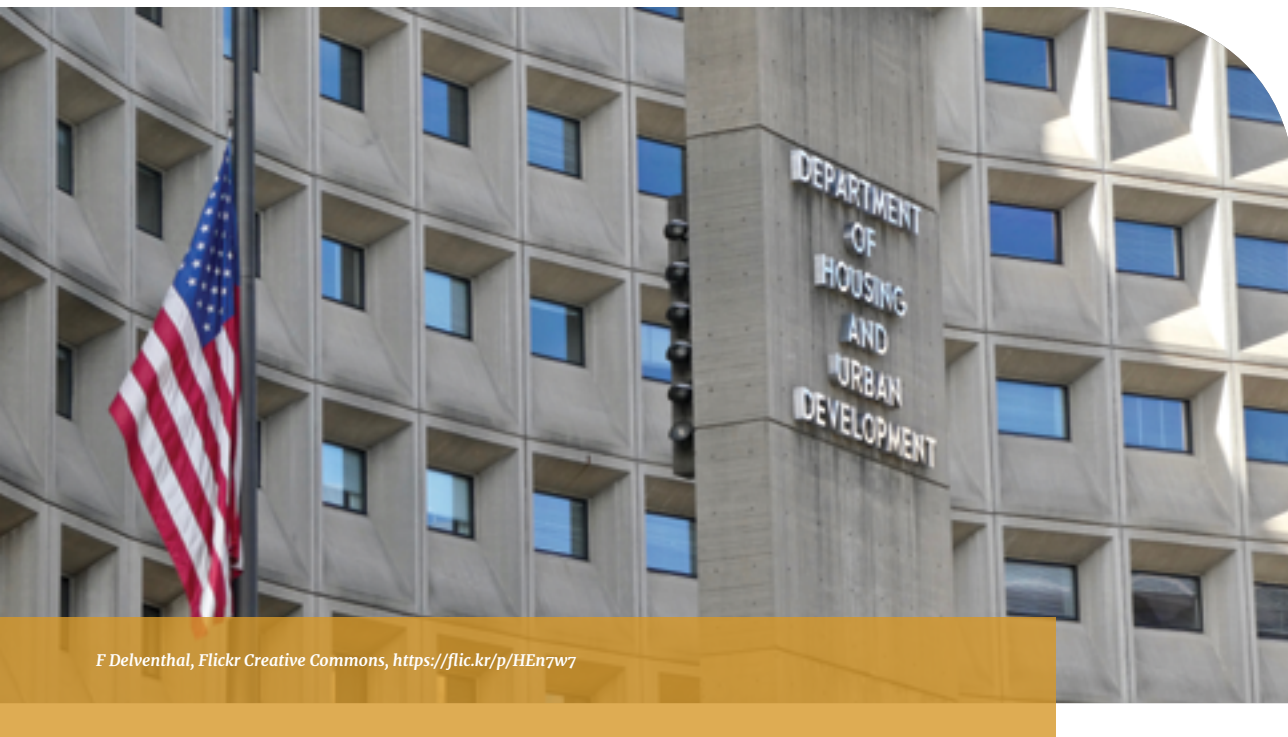
Most would agree that America has made tremendous strides in this area. The evidence is clear – our neighborhoods are more diverse and individuals who once faced numerous obstacles when seeking housing, particularly minorities, enjoy greater access than ever before.

Still, some continue to see their housing options limited because of how they look, where they come from, the language they speak, or because

they have some type of physical or mental disability.

Each year, HUD and its fair housing partners across the country receive thousands of complaints from individuals alleging that their fair housing rights have been violated in some way. And though today's discrimination tends to be less blatant than it was in years past, the effect is still the same – someone is denied the housing of their choice. In a nation founded on the principles of justice and equality, this is unacceptable.

Indeed, addressing the unlawful denial of housing is what drives HUD's efforts to enforce the Fair Housing Act, the landmark law which prohibits housing discrimination based on a person's race, color, national origin, religion, sex, family status, or disability. What's more, this 50-year-old law applies to housing in every type of community, from the biggest city to the smallest town.



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Much work remains to be done, but HUD's efforts to reduce discrimination in rural areas are yielding results, particularly when it involves discrimination against families with children. For example, last fall HUD charged the owners and operators of two apartment buildings in Altoona, PA, with violating the Fair Housing Act when they posted an online classified ad which stated that the unit was "not suitable for children/pets."

HUD also charged a group of New Hampshire landlords with discrimination when their on-site manager purposely limited the housing options of rental applicants with young children. In one instance, when the manager learned that an applicant had an infant son, he told her that she could only rent one of the first-floor units, none of which was available at the time.

And in Mountain View, CA, HUD reached an agreement with the owner and manager of an apartment development, resolving allegations that they discriminated against tenants because they had children, and because of their national origin.

A family's housing options shouldn't hinge on whether or not they have children.

HUD is also devoting more energy to fighting the discrimination many persons with disabilities continue to face, especially discrimination against persons who require service or assistance animals.

Disability is the most common basis of fair housing complaints HUD and its partner agencies receive, accounting for 55 percent of all complaints, and the number is expected to rise as the nation's population continues to age.

Last summer, HUD reached an agreement with the owners and managers of two apartment complexes in Greenbrae, CA resolving allegations that they wouldn't allow a resident with disabilities to keep her assistance animal.

And in Moore, OK, HUD charged the landlords of a rental home with that same type of discrimination when they refused to let a veteran with disabilities keep his emotional support animal, even though the veteran had provided medical documentation proving that he needed the animal.

At the same time, HUD is committed to ensuring that women who live in rural communities are able to feel safe and secure in the place they call home, and free from unwanted sexual advances or other forms of sexual harassment.

We still have a lot of work to do in this area, but we are making progress.

HUD charged the owner and landlord of several rental properties in the outskirts of Wichita, KS, with discrimination for sexually harassing two female tenants. In that case, the property manager entered the apartment of one of the women uninvited, sexually harassed her, and requested that she consent to sex in exchange for her being allowed to stay in her unit.

No woman should have to put up with unwanted sexual advances in order to keep a roof over her head.

Although no formal regulation has been in place, HUD and courts have long held that harassment in housing or housing-related transactions is prohibited under the Fair Housing Act.

That's why HUD is committed to doing even more to address this type of discrimination.

So are many of HUD's fair housing partners. Last January, HUD awarded \$500,000 to Fair Housing Initiatives Program agencies, particularly those that focus on protecting the rights and needs of underserved groups and rural populations, to help them build their capacity to do even more.

And because connecting people

with job opportunities is essential to fostering upward mobility and creating strong, vibrant communities, HUD is devoting new energy to the Section 3 program, particularly in rural areas. The program requires that employment and other economic opportunities generated by HUD financial assistance be directed to low- and very-low income persons and the businesses that hire them.

According to reports submitted by direct recipients of HUD funding covered by Section 3, approximately \$950 million in contracts are awarded to Section 3 businesses each year, a significant portion of which goes to rural-based businesses.

What's more, HUD's Section 3 business registry continues to expand. The searchable online database helps rural housing authorities, local government agencies, and contractors identify firms that have self-certified their status as Section 3 businesses and businesses that hire low-income individuals.

Currently, more than 3,800 businesses have self-certified their eligibility as Section 3 businesses and we anticipate that the number will continue to increase.

All of these efforts are helping America's rural areas to become thriving communities, where everyone



Photo courtesy of Fair Housing Project, Champlain Valley Office of Economic Opportunity

has the same opportunity to pursue their aspirations.

At a time when America's rural communities are facing some of the toughest challenges they have ever faced, HUD remains vigilant in its commitment to improving the lives of the hard-working families who call these areas home.



*Anna María Farías is the Assistant Secretary for Fair Housing and Equal Opportunity at the U.S. Department of Housing and Urban Development.*





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# Working Towards Fair Housing in 2018's Rural America

*By Leslie R. Strauss*

Rural fair housing advocates rely on outreach, education, cultural sensitivity, and partnerships to address issues that may not have been evident 50 years ago.

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Fifty years after President Lyndon B. Johnson signed the Fair Housing Act into law on April 11, 1968, decent, affordable housing still is not equally accessible to everyone in the United States. The Act has been expanded over the years – two protected classes were added in 1988 – and enforcement mechanisms have been amended as well. At the same time, the U.S. has changed since 1968, bringing new challenges for fair housing efforts.

## Fair Housing Act Bars Discrimination

The Fair Housing Act addresses two types of activities, discrimination and affirmatively furthering fair housing. The Fair Housing Act bars discrimination on the basis of race, color, national origin, religion, sex, disability, and familial status. The U.S. Department of Housing and Urban Development (HUD) bears primary responsibility for enforcement, and funds state and local governments, as well as nonprofit organizations, to handle some of the complaints lodged under this provision.

The Fair Housing Act's ban on discrimination applies to all housing-related transactions including rental, sale, provision of financing, and provision of insurance, with a few exemptions for owner-occupied multifamily housing with four or fewer units, housing intended for seniors, and others. The Act's provisions also overlap with or complement those of other laws including state and local fair housing statutes, the Americans with Disabilities Act, and fair lending laws.

Since the early 2000s, discrimination based on disability has comprised the largest category of complaints across the U.S., according to the National Fair Housing Alliance (NFHA). In 2016, 55 percent of the complaints analyzed by NFHA involved discrimination on the basis of disability, followed by 19.6 percent based on racial discrimination and 8.5 percent based on discrimination against families with children.

Disability-based complaints often involve apartment buildings that are not accessible to people with disabilities. Assistance animals are also frequently the source of conflicts, said Joe Garcia, Director of the Fair Housing Center of Nebraska and Iowa. Garcia's clients in both urban

and rural areas, like others around the country, have found some landlords reluctant to view their trained assistance animals, which are not considered pets under the Fair Housing Act, as exempt from no-pets laws.

The same pattern – a majority of complaints being based on disability, followed by race – holds true in most rural places as well. In 2017 the Fair Housing Center of Nebraska and Iowa found a basis for complaint in 305 grievances it received, 88 percent of which concerned people with disabilities.

In contrast, in 2017 for the first time there were more complaints in Idaho based on national origin than any other protected class in connection with both for-sale and rental housing. Refugees are settling in the state, explained Zoe Ann Olson, Executive Director of the Intermountain Fair Housing Council, because Idaho's economy is booming, with jobs available at dairy farms and factories and in the hospitality industry.

## State and Local Fair Housing Laws Also Cover Discrimination

In some places, state and local laws add other classes to those protected by the federal Fair Housing Act. Forty-nine states and the District of Columbia have fair housing laws (Mississippi is the exception), but not all of them add to the federal protections. A few even omit some of the federally protected classes; familial status is not covered by the state laws of Alaska, Idaho, Massachusetts, or New Mexico.

Iowa's fair housing law goes further, prohibiting discrimination based on the seven federal categories, as well as sexual orientation or gender identity. Vermont's law adds those grounds of discrimination along with age, marital status, receipt of public assistance, and income. In Nebraska, the state fair housing statute does not add to the federal list of protected classes. Only Omaha – the largest city in the state – has adopted a local law that provides protection for marital status and age.

## HUD Suspends Implementation of Affirmatively Furthering Fair Housing Rule

By Renee Williams

**After its first attempt resulted in a lawsuit, HUD used a different tactic to step back from a regulation put into place in 2015.**

The Fair Housing Act references the federal government's responsibility to advance fair housing in its programs and activities related to housing and urban development. This obligation, known as the duty to affirmatively further fair housing (AFFH), stands for the proposition that it is not sufficient for the federal government and its funding recipients to prohibit discrimination. They must also take proactive steps to dismantle the vestiges of segregation.

For decades, this language was often overlooked or ignored, despite the Fair Housing Act's powerful mandate. In July 2015, the Department of Housing and Urban Development (HUD) finalized regulations regarding the AFFH obligation, often referred to as the AFFH Rule. Under this rule, recipients of HUD funds including states, local governments, and public housing agencies (PHAs) are required to analyze fair housing issues in their communities and larger regions in a new planning process called the Assessment of Fair Housing (AFH). The AFFH Rule also requires HUD funding recipients to use the AFH process to formulate meaningful goals to overcome the ongoing impacts of segregation, disinvestment, and denial of opportunities to communities of color, persons with disabilities, and other groups protected by the federal Fair Housing Act.

Importantly, the AFFH Rule mandates that each HUD funding recipient submit its AFH to HUD as a condition of receiving funding, including Community Development Block Grants, HOME funds, and funding for PHAs. The AFFH Rule requires meaningful community participation to ensure that the resulting analysis reflects local needs and solutions. Housing and civil rights advocates considered the issuance of the AFFH Rule to be a landmark moment, signaling HUD's commitment to advancing fair housing opportunity for all.

Unfortunately, a recent decision by HUD has disrupted the AFFH Rule's trajectory. In January 2018, HUD issued a notice suspending implementation of the AFFH Rule for local governments until after October 2020. The notice informed local governments that they would conduct

fair housing planning during the suspension period using the Analysis of Impediments (AI) – the very planning process the AFH was designed to replace. Due to the absence of HUD review or a clear planning framework, the AI has been considered to be an ineffective means of identifying and devising ways to address fair housing barriers.

On May 8, fair housing and legal aid organizations filed suit against HUD for suspending the AFH requirement without first giving an opportunity for public review and comment, and argued that HUD's stated reason for the suspension was insufficient. On May 18, HUD announced it was canceling the suspension.

At the same time, however, HUD withdrew the "assessment tool" used by local governments to comply with their Affirmatively Furthering Fair Housing obligations. HUD requested public comments on ways to make the tool "less burdensome and more helpful." This withdrawal achieves the same result as suspension of the AFH requirement: local governments will use the older AI process rather than the AFH.

It is important to note, however, that the withdrawal of the assessment tool does not impact or change the HUD funding recipients' statutory obligation to affirmatively further fair housing. The expected lack of meaningful federal oversight of funding recipients' fair housing analyses makes local advocacy by a variety of stakeholders more important than ever. Housing advocates, affordable housing providers, and residents must continue to make their voices heard at the state and local levels, including advancing policies that will ensure access for all to safe, decent, and affordable housing free from discrimination.

*Renee Williams is a Staff Attorney at the National Housing Law Project.*

In Idaho some very small towns have adopted local laws. Olson reported that while Idaho's state fair housing law does not add any categories to the federal law, 12 Idaho cities, including the towns of Driggs (population estimated at 1,839 in 2016) and Sandpoint (population estimated at 7,698 in 2016), protect sexual orientation. Eleven of the 12 also protect gender identity.

### Fair Housing Act Requires "Affirmatively Furthering"

The second part of the federal Fair Housing Act, said Texas Appleseed attorney Maddie Sloan, "requires that housing and community development programs be administered 'in a manner to affirmatively further the policies of' the Act." This obligation means jurisdictions must take meaningful actions to address significant disparities in housing needs and in access to opportunity, she noted. "In other words, fair housing is not just housing. It encompasses all of a jurisdiction's housing and community development activities, from where new housing is located to the adequacy of infrastructure."

Like the ban on discrimination, the obligation to affirmatively further fair housing is enforced by HUD. State and local governments must include fair housing information in HUD-required Consolidated Plans if they receive grants from major HUD programs.

### People who believe they have experienced discrimination

may file a complaint by contacting HUD's Office of Fair Housing and Equal Opportunity at 800-669-9777 (voice) or 800-927-9275 (TTY).

Housing discrimination complaints may also be filed online at [www.hud.gov/fairhousing](http://www.hud.gov/fairhousing).

State and local government agencies participating in HUD's Fair Housing Assistance Program may be located at [https://www.hud.gov/program\\_offices/fair\\_housing\\_equal\\_opp/partners/FHAP/agencies](https://www.hud.gov/program_offices/fair_housing_equal_opp/partners/FHAP/agencies)

### Rural Housing Discrimination is Not Like Urban

Fair housing issues are not necessarily the same in rural places as in cities. An example was provided by Foster Corbin, who wrote about fair housing for *Rural Voices* in 2009 and has since retired as the Executive Director of Metro Fair Housing in the Atlanta area.

In one of our cases, a landlady who had run an ad for an apartment in a local newspaper in rural Georgia refused to rent the apartment to our African-American client who was in middle management in a nationwide corporation that had just opened a facility in that area. She told him that the apartment was available when he called her on the phone, but when he came by to see the apartment she informed him that she was saving it for a family member. She later told our Caucasian investigator, who attempted to rent the apartment, that she did not "rent to those kinds of people" and proceeded to offer him the apartment.

*"Fair housing is not just housing. It encompasses all of a jurisdiction's housing and community development activities, from where new housing is located to the adequacy of infrastructure."*





Photo courtesy of High Plains Fair Housing Center

Fear of retaliation by others in their small communities keeps some rural Georgia residents from filing fair housing complaints, Corbin explained. He also saw Latino victims of discrimination concerned about government retaliation, even if they have legal status in the U.S. "In spite of our rigorous campaigns ..., often through the churches and always in Spanish," he wrote, "regardless of how much we try to assure them that filing a fair housing complaint will not put their residency status here in danger, they seldom come forward to file a complaint." Olson described the same phenomenon in Idaho, as did Garcia in Iowa and Nebraska.

Garcia said that testing by his organization finds rural residents show a greater "fear of the unknown," such as people who are immigrants or Muslims. He believes this is because the states' larger cities are far more diverse, so residents there are used to seeing people who look differently than they do.

"It's my property" is another attitude more often found in rural areas, Garcia notes. "People say no one else can tell them what to do with their own real estate."

### Hate Crimes Overlap Fair Housing

Some rural fair housing advocates have noticed recent increases in housing-related hate activity.

NFHA defines housing-related hate activity as activity that may coerce, intimidate, threaten, injure, or interfere with persons attempting to exercise and enjoy their fair housing rights.

Garcia reported immigrants experienced housing-related discrimination (usually more subtle than blatant), but has had no reports of housing-related hate crimes. On the other hand, Olson in Idaho described an increase in overt discrimination in many spheres including housing since the November 2016 election. In one rental complex, for example, residents called the police repeatedly, claiming that one immigrant family was playing their TV and radio too loudly. Investigation revealed that the family did not own either a TV or a radio.

"People are acting out more freely," said Olson. In past years, bigotry was present, "but now it's heightened." At the same time, she believes, the targets of such discrimination are increasingly aware of their rights, as are local officials.

Native Americans, long the targets of housing discrimination in Idaho and elsewhere, have also experienced added problems recently, Olson said, as housing providers or neighbors sometimes believe Native Americans are Hispanic or are recent immigrants to the U.S. and treat them poorly because of those perceptions.

## Social Media Can Harm or Help

Social media such as Facebook have been criticized for allowing users to target housing ads to people with certain characteristics, thus enabling discrimination that is difficult to identify. Fair housing advocates interviewed for this story say, however, that in rural areas social media are not commonly used to advertise housing, either for sale or for rent.

Olson believes social media can be used for good in rural fair housing efforts. Her group has used it as an education and outreach tool. Those targeted by discrimination can use social media and the web to learn about and communicate with her organization, the NAACP, or other supporters. Electronic communication also makes it easier for advocates and service providers to contact each other when needed, she added.

## Outreach and Education are Key

Rural coverage by fair housing nonprofits appears to make a difference in enforcement and education. For example, residents in Chautauqua and Cattaraugus counties in New York state, places without fair housing groups, were found to be uninformed about their fair housing rights and their options for filing complaints, according to housing consultants Nancy Berkowitz and Blair Sebastian. Underscoring their findings, a legal aid attorney told them he had handled only one fair housing complaint in 25 years working in Olean, the largest city in Cattaraugus County.

Fair housing groups cannot succeed without help; advocates describe partnerships, education, and outreach in multiple languages as essential to their successes. Idaho's 311 state information system and the state's housing finance agency refer fair housing questions to the Intermountain Fair Housing Council, which also works with the American Civil Liberties Union, independent living centers, the Pride Foundation, and a network of legal partners.

Olson said her nonprofit works with fair housing guides and ambassadors around the state and with trusted leaders of refugee communities and the disability community. These individuals can provide fair housing information in whatever languages are needed. In Georgia, Metro Fair Housing reaches out through both African-American and Latino churches to educate rural residents about the services the organization offers.

Garcia's organization offers training for housing providers, including public housing agencies, and to local governments. He said that most people want "to do the right thing." Olson has seen the same attitude among local government officials in Idaho.

## There is More to Do

Achieving fair housing in 2018's America – rural, urban, and suburban – relies on individuals' understanding of their rights and willingness to claim those rights, as well as on state and local governments' willingness and ability to challenge the status quo, and the federal government's will to require them to do so. Rural advocates are tackling those challenges. Outreach, education, cultural sensitivity, and partnerships work in concert to pursue that goal. Rural fair housing advocates know how to help make fair housing possible and are optimistic about their prospects.



# Vermont Tackles Fair Housing Along with Housing Affordability

*By Ted Wimpey*

Vermont's Fair Housing Project encourages residents and local governments to improve zoning and permitting in order to further fair housing and the development of affordable housing.

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Experience in Vermont shows that the Fair Housing Act is important for rural areas as well as for cities of all sizes. Vigorous, affirmative steps forward are still needed in fair housing law enforcement at the local, state, and federal levels of government, along with increased education and outreach efforts. Urban and rural policies that promote more opportunities for all people and a reduced concentration of pockets of poverty are needed to fully actualize the core promise of fair housing law.

### Housing Discrimination in Vermont

Vermont is a small, low population state with a largely homogeneous demographic profile and a somewhat exaggerated national reputation for being progressively oriented. Anecdotal observations suggest that a lot of

Vermont's residents believe fair housing issues (or basic issues of racism for that matter) are not really a problem in the state. Unfortunately, however, Vermont is not without housing discrimination problems, including de facto systemic discrimination, manifested primarily in various municipal level policies. Housing discrimination in Vermont may not always look the same as it does in more urban areas with larger minority populations, but it does exist here.

In Vermont, occurrences of explicit discrimination based on race, color and national origin happen more frequently in the state's urban hubs – especially Chittenden County, which encompasses Burlington, the state's largest city, and is the largest and most urban county in the state. This is primarily because the populations of black and brown people and/or people of non-U.S. origin

are significantly higher in Chittenden County than in much of the state. Vermont does not actually have any extensive areas of concentrated poverty and minorities, though smaller scale variants of that might be said to exist.

Vermont's total population is only 623,657 according to the Census Bureau's most recent estimate. The overall statewide population of people of color, Hispanics, Asians, and other minorities is relatively small and moderately concentrated. Black and African American people, Hispanics or Latinos, and Asians each comprise less than 2 percent of the population, while the state's overall white population is estimated at 94.6 percent. In Chittenden County, whites constitute 90.8 percent of the population and all other people represent 9.2 percent, still far less diverse than many other parts of the country.

Perhaps it is not surprising, then, that discrimination based on race and color was the basis for only three fair housing complaints filed with HUD's Office of Fair Housing and Equal Opportunity or the Vermont Human Rights Commission between 2013 and mid-2016. Disability was the most often alleged basis of discrimination, accounting for more than half the complaints, with familial status (generally the presence of minor children) the second most frequent.

Vermont passed its state fair housing law in 1987, 19 years after the federal Fair Housing Act. Vermont's fair housing statute (9 V.S.A. § 4503) adds some protected categories to those of the federal law, including age, marital status, sexual orientation, gender identity, receipt of public assistance, and most recently, income of prospective resident – this latter category applies in municipal planning and land use decisions.

## The Affordable Housing Connection: Disparate Impact

Housing affordability and fair housing connect through the principle of “disparate impact.” Places with expensive housing tend to disproportionately exclude lower income people, whether by intent or in effect. A statistically larger percentage of people in classes protected by federal or state fair housing laws (e.g., people of color, new Americans, people with disabilities, people receiving public assistance, and others) have lower household incomes than their counterparts who are white, American born, and without disabilities, and so forth. Even if there is no explicit intention to discriminate, income disparities can create disparate impact discrimination.

Like most of the rest of the country, Vermont needs more decent, affordable housing. Entrepreneurs looking to locate or expand operations in Vermont have spoken up about the problems they face in finding affordable housing for their employees or finding employees when there is too little affordable housing close to their businesses. “Among our most pressing challenges is growing our workforce,” says Michael Scherling, Secretary of the Vermont Agency of Commerce and Community Development. “To enable our economy and our businesses to grow in a meaningful way we must address this challenge. Attracting and retaining workforce is directly affected by the quality, availability, and affordability of our housing stock. Workforce housing is among the top impediments Vermont businesses cite when they struggle to fill openings.”

Vermont's Commissioner of Housing and Community Development, Katie Buckley, echoes Secretary Scherling's sentiment: “One of the best ways to effect affordability for those who want to work and live in Vermont is to create more housing opportunities that are close to jobs, schools, services, shops, public transportation,



etc. Our downtowns and village centers are the prime places to do this – they are among our most valuable assets in creating the right housing options in the 21st century. Crafting smart policies to support development that follows our traditional, compact settlement patterns and includes a range of housing opportunities affordable at all income levels, is what is right for Vermont and Vermonters.”

So, businesses need more housing and more quality affordable housing to effectively do business in Vermont. At the same time, from a fair housing advocate perspective, creating more inclusive communities with more affordable housing and mixed income housing is vital. This situation points to some solutions that must be fully explored and implemented.

## Working Towards a Solution

To address fair housing issues as well as housing affordability challenges, three statewide programs in Vermont have undertaken efforts via enforcement, housing provider practices testing and education, and outreach projects. Vermont Legal Aid, Inc. runs a program called the Housing Discrimination Law Project, which conducts fair housing testing, and enforcement, as well as education and outreach activities. The Vermont Human Rights Commission is involved in enforcement of fair housing laws among other types of discrimination. This author’s program, the Fair Housing Project (FHP), a program of the Champlain Valley Office of Economic Opportunity, conducts education and outreach activities statewide with a particular focus on improving systemic policies — laws and practices that tend



to present road blocks to broad fair and affordable housing opportunities.

These barriers include, for example, exclusionary zoning laws and permitting policies and practices. The FHP works to encourage municipalities to enact more inclusive zoning laws; shorter, easier, and less expensive residential development permitting processes; smaller lot size requirements, higher permitted residential building height and allowances for more density; and provision of density bonuses for building affordable housing.

Fortunately, fair and affordable housing advocates have had some regional and state level governmental allies with some relative continuity on many of these policy issues through recent Democratic and Republican administrations – Phil Scott, the current Governor of Vermont, is a Republican. Resources for the work could be ramped up for more active change. These alliances are important because addressing systemic issues of disparate impact upon protected classes and exclusive communities requires policy and practice adjustments at all levels of government.

In our outreach and education efforts the FHP tends to employ a carrot approach – “this is in your own best interest” – rather than a stick approach such as threatening legal action. This seems to work somewhat better, especially for residents of more conservative communities, who are especially reluctant to make any changes and are fearful of affordable housing residents. These people need to be tactfully and gently enlightened about real affordable housing.



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The FHP partners with regional planning commissions to do education and outreach work with municipal officials, councils, select boards, planning commissions, development review boards, zoning enforcement staff, and planning professionals as well as concerned residents. Presenting municipal movers and shakers with examples of the potential local economic benefits that can follow from development of more affordable housing appeals to some self-interests and can tend to somewhat blunt opposition. For some people, just the term “affordable housing” conjures up false mental images of some of the worst public housing developments of the past. But the carrot we hold out is the increased possibility of more economic vibrancy that comes to communities that are inclusive and affordable. Developing more affordable mixed income housing and mixed use housing located in or near town centers can work wonders for community vitality in small towns as well as larger ones.

Having said all that, there will remain a few egregious and intransigent situations in which even a subtle whiff of possible legal or administrative actions to correct violations of fair housing and civil rights laws may be just what is needed to bring about positive movement.

Residential developers and financiers, both for-profit and nonprofit, can be allies in promoting more inclusive policies. Almost daily they face

policy obstacles as they try to locate and develop housing, especially housing that is affordable to lower-income households. The FHP has partners and allies in the residential development industry, both for-profit and nonprofit mission-driven entities. Some developers’ interests dovetail with those of advocates and some do not. Nevertheless, effective collaborative efforts can be forged between advocates, various businesses, and housing development financing entities, both public and private. This is possible in Vermont because the state has a well-established, solid network of nonprofit development and financing organizations whose primary mission is to develop affordable housing. To build more vibrant and inclusive communities, then, FHP and advocates in other places can cultivate and energize the dovetailing of concerns between affordable and fair housing advocates with governmental administrative policy at some levels.

*In our outreach and education efforts the FHP tends to employ a carrot approach – “this is in your own best interest” – rather than a stick approach such as threatening legal action.*

*Ted Wimpey is Director of the Fair Housing Project at the Champlain Valley Office of Economic Opportunity in Vermont.*



# Disasters Don't Discriminate, *Recovery Shouldn't Either*

*By Maddie Sloan*

Disaster recovery must be designed to be fair for all, even if pre-disaster housing situations were not.





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Natural disasters reveal and highlight systemic inequities in housing and infrastructure driven by historical patterns of public spending and investment. The failure to equitably invest in all communities means that low-income households, people of color, and people with disabilities often live in areas most vulnerable to flooding and damage caused by disasters, and have the most difficulty recovering. These systemic and structural issues mean that even policies and resource allocations made with no discriminatory intent can have discriminatory results if government does not consider civil rights and equity in disaster recovery. When the federal, state, and local systems set up to respond to a disaster don't work well, or don't work in a

way that takes equity into account, they not only affect the families and communities struggling to recover, they recreate and reinforce existing conditions, making recovering from the next disaster even more difficult. These equity issues are vital to rural communities, where residents tend to have lower incomes than more urban areas, and where there are fewer resources for disaster recovery besides federal and state funding.

### What the Law Requires

Non-discrimination and equity are not only effective disaster recovery; they are legal requirements for access to federal disaster recovery funds. The principle that public

dollars cannot be spent in a discriminatory way applies to all federal funds, regardless of the source of funds, or which federal, state, or local agency is administering them. In addition to civil rights requirements imposed by the Stafford Act, Title VI of the Civil Rights Act of 1964, and federal guidance on Title VI compliance in emergency management, federal housing and community development dollars are also covered by the Fair Housing Act.

This is important because Congress uses the Community Development Block Grant program as an ad hoc disaster recovery program, appropriating supplemental CDBG funding for Disaster Recovery (CDBG-DR) to respond to unmet housing, infrastructure, and economic development disaster recovery needs. Texas has been allocated \$5.5 billion in CDBG-DR funds for Hurricane Harvey, and Congress has appropriated additional funding as well.

To receive CDBG-DR funds, eligible jurisdictions must certify that they will affirmatively further fair housing. In the context of disaster recovery, that obligation includes ensuring that:

- decisions about resource allocation and program implementation do not result in the permanent displacement of communities of color and other groups protected by the Fair Housing Act;
- those decisions do not reinforce and exacerbate existing patterns of segregation and disadvantage by, for example;
  - » failing to rebuild multifamily assisted housing in safer and higher opportunity areas,
  - » failing to give homeowners a choice to rebuild in safer areas, and
  - » failing to invest infrastructure and economic development funds in a way that remediates historical disinvestment in distressed communities and makes them more resilient; and
- programs and processes comply with civil rights requirements under both the Fair Housing Act and Title VI of the Civil Rights Act of 1964 by providing equal access for persons with disabilities and persons with limited English proficiency, and for disaster victims regardless of their race, color, national origin, familial status, disability, religion, or sex.

## Implementing the Law

In practical terms, what does this mean for recovering rural communities?

First, how is your community picking which recovery projects will be funded, and who will benefit from those projects? Resources are often more limited for smaller rural communities that may have extensive damage, but fail to meet dollar amount thresholds for certain types of disaster funding, so communities may be limited in which projects they can fund. However, local governments still need to make sure the projects they choose don't leave out certain parts of the community.

Following Hurricane Dolly in the Rio Grande Valley, rural colonias were among the hardest hit areas. Because colonias lack engineered drainage, flood waters sat in colonias for weeks, forcing families to wade through contaminated water just to get to work or school. The lack of drainage was a legacy of historical discrimination against Mexican Americans in the Rio Grande Valley, which excluded them from cities and pushed them into substandard developments on the least



desirable land. When the region proposed disaster recovery projects, however, it proposed expanding the regional drainage infrastructure, which would help get water out of incorporated cities and developed areas faster, but wouldn't fix the lack of drainage in colonias, leaving them vulnerable to repeated flooding. Organized colonia residents used civil rights claims to redirect funding into fixing their neighborhoods,

including a study of colonia drainage needs that can guide future funding from other state and federal forces.

Second, are programs designed to reach and serve all your residents equitably? For example, home repair or buyout programs that are based on the pre-storm value of the home often have a disparate negative impact on people of color, who, for reasons stemming from historical discrimination, often have homes that are

worth less because of market discrimination or they have been forced into higher risk and less desirable areas by segregation. Following Hurricane Katrina, a lawsuit was filed against the state of Louisiana and the U.S. Department of Housing and Urban Development (HUD) alleging racial discrimination in the state's CDBG-DR funded Road Home Program, which provided grants to homeowners to repair or rebuild their



Photo: Alaska National Guard, Flickr Creative Commons,  
<https://flic.kr/p/Y1SwAs>



homes. The original grant formula was based on the pre-storm value of a home, so African-American homeowners received less repair money than white homeowners because their homes were located in neighborhoods with lower home values due to market discrimination and the legacy of segregation. Many African-American families were left unable to complete repairs or return home or were left living in uninhabitable houses. The lawsuit (which resulted in a change to the Road Home formula) and settlement resulted in an additional \$535 million in repair and rebuilding funds for low- and moderate-income homeowners in the four most impacted parishes in Louisiana.

Low- and moderate-income households must be provided with enough funds that they can repair or rebuild their homes, that their choice to take a buyout or move is a realistic one, or to ensure that they can actually move to a safer area in the case of mandatory buyouts. Benefit amounts that don't reflect the actual cost of rebuilding or relocating mean homeowners are stuck between

staying in unsafe homes in high risk areas or being permanently displaced from their pre-storm homes and communities.

Long-term disaster recovery programs must look not just at rebuilding individual houses or specific infrastructure, but at how disaster recovery can rebuild in a way that makes communities – particularly those that have been historically neglected – more resilient and less susceptible to damage from future storms. Existing civil rights and fair housing requirements attached to federal CDBG-DR funds are intended to ensure that recovery is fair and equitable – that housing is rebuilt in a way that gives families choices about where they live, and that federal funds address the long term effects of racial segregation and disinvestment that have left minority communities with inadequate

infrastructure and unequal access to public resources and services.

In America, zip code is destiny. Where an American child is born is predictive of everything from educational and economic outcomes to life expectancy. Our history of segregation and discrimination plays out in disaster recovery just as it does in so many other areas of life, leaving some Americans more vulnerable to disasters and with fewer resources for recovery. The history of the Fair Housing Act is a history of missed chances, but disaster recovery offers us another change to build back stronger, more inclusive, and more resilient communities whether they are urban, suburban, or rural.

*Maddie Sloan is the Director of the Disaster Recovery and Fair Housing Project at Texas Appleseed.*



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Washington, DC.

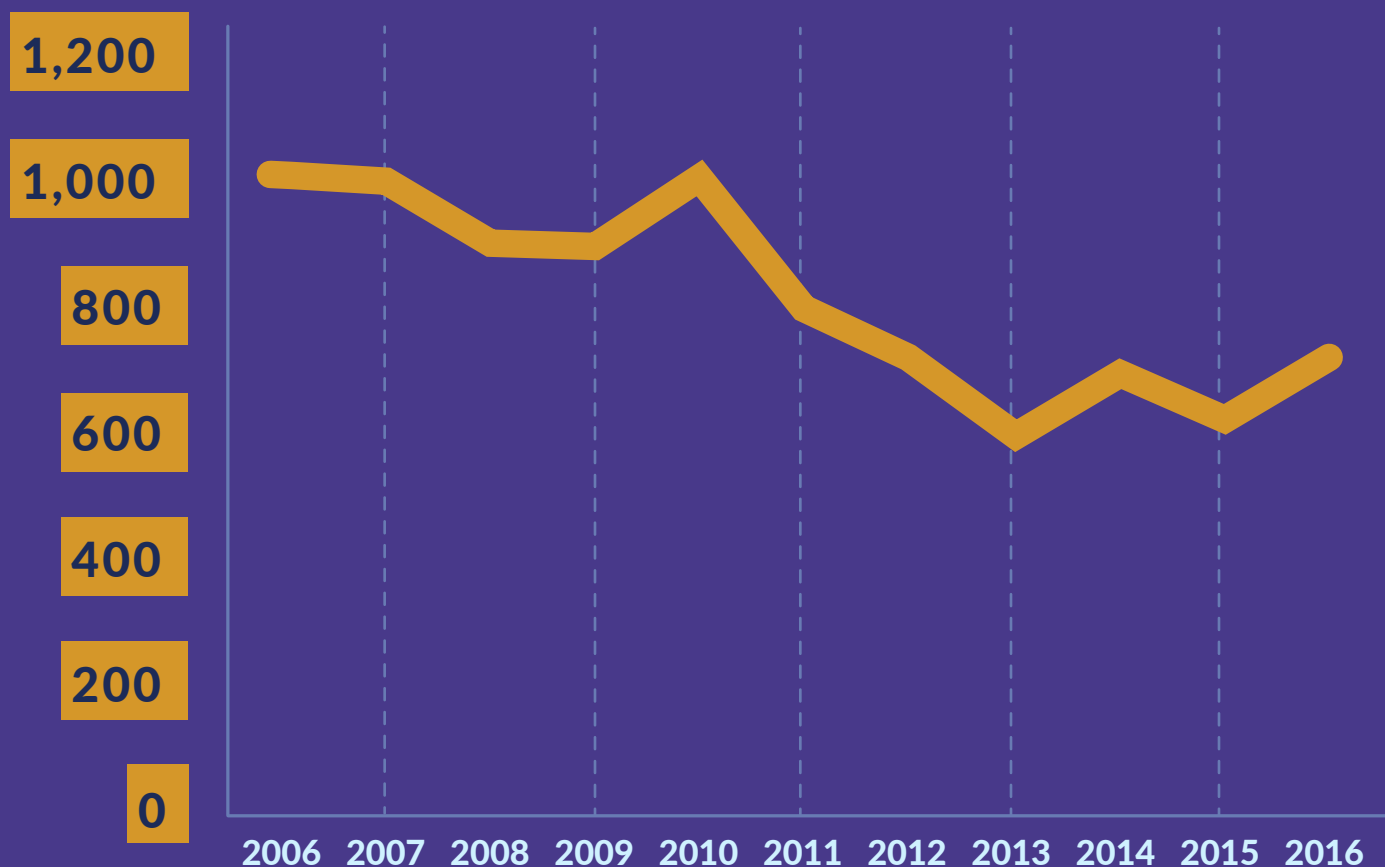
*For more information visit*

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# FAIR HOUSING IN RURAL

**Trends in Rural Fair Housing Complaints**



*Top Reasons for Complaint*

- 1. Disability**
- 2. Race**
- 3. Familial Status**
- 4. Sex**
- 5. Retaliation**

*Rural areas account for*

**15%**

*of all  
U.S. households*

*and*

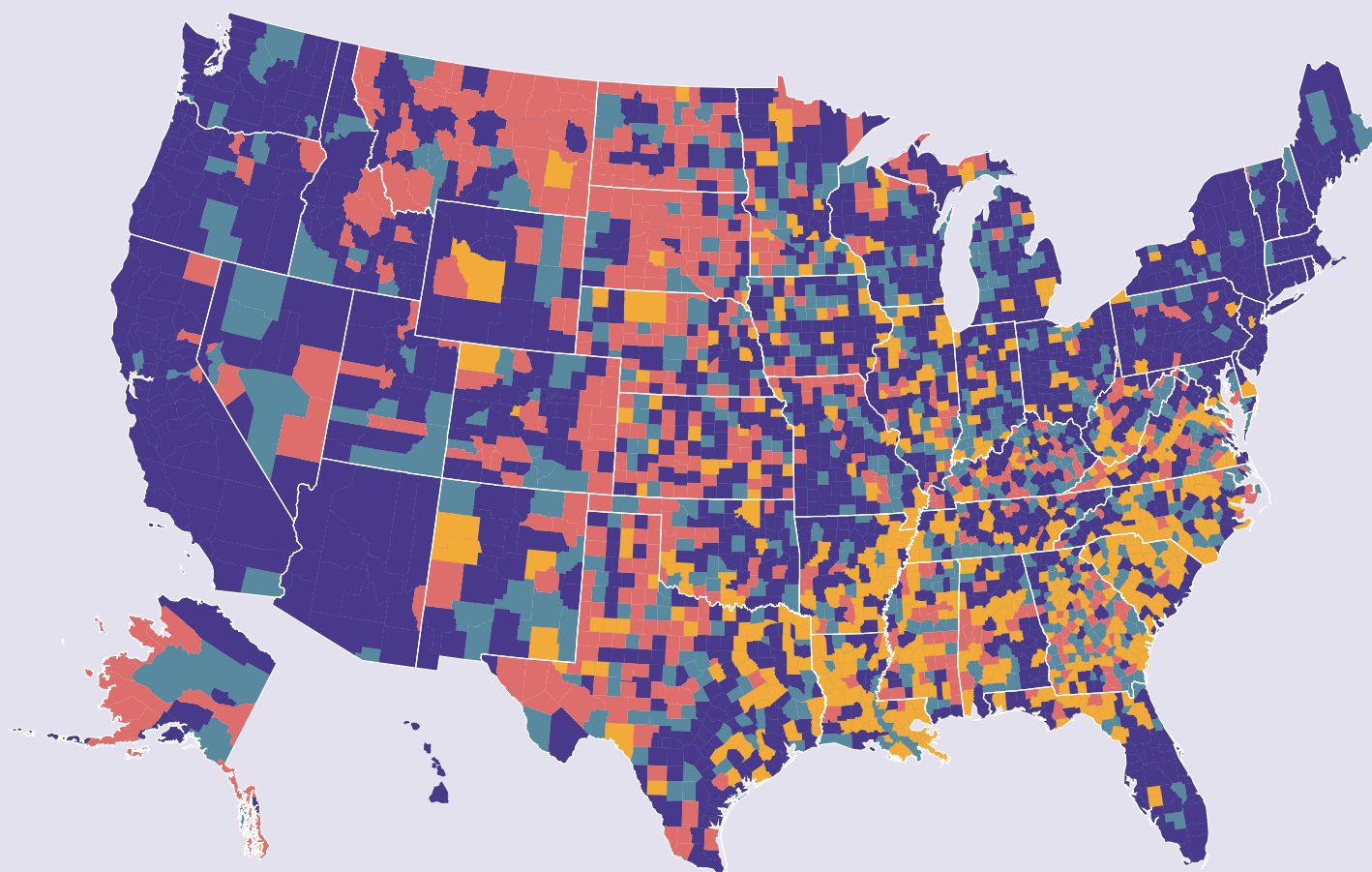
**9%**

*of fair  
housing complaints.*



# AMERICA - BY THE NUMBERS

## Most Common Fair Housing Complaints by County 2006-2016



Disability Race/Color Other No Complaints Reported

Source: Housing Assistance Council generated map using HUD's FHEO filed cases data 2006-2016.  
<https://catalog.data.gov/dataset/fheo-filed-cases/resource/a0d0abf2-dd1d-46f4-a6c4-f053050b814e>

# Nuisance and Crime-Free Ordinances: *The Next Fair Housing Frontier*

by Renee Williams and Marie Flannery

Fair housing laws may conflict with local laws and policies that penalize tenants for calling law enforcement or having a history of arrest or conviction.





Photo: Phil Whitehouse Properties, Flickr Creative Commons,  
<https://flic.kr/p/6D7xoD>

Calling for help in an emergency seems like a reasonable thing to do. However, in jurisdictions across the country, obtaining law enforcement or emergency assistance may also jeopardize one's housing security – even resulting in eviction. This may occur even when someone is the victim of a crime, such as domestic violence, and is simply calling the police for assistance. This is but one illustration of the consequences of many so-called “nuisance” or “crime-free” ordinances and policies. Jurisdictions may also have crime-free ordinances requiring lease addenda for renters – addenda that include very broad definitions of criminal activity. Such laws and policies have fair housing implications, and represent a new frontier in the struggle for fair and equal access to housing for all.

### The Problem<sup>1</sup>

A number of jurisdictions have these “nuisance” and “crime-free” ordinances. They govern a range of conduct. For example, a nuisance ordinance may be enforced against a property due to inadequate upkeep, or noise.<sup>2</sup> An ordinance may also be enforced against individuals who call the police too many times – such as survivors of domestic violence, who are overwhelmingly women. When landlords are cited for having “nuisance” properties, they may evict the tenants.<sup>3</sup> This can raise fair housing concerns because such policies may have a discriminatory effect on women.

Similarly, crime-free ordinances may require landlords to adopt “crime-free lease addenda” that “require or permit housing providers to evict tenants where a tenant or resident has allegedly engaged in





Photo: Ruin Raider Properties, Flickr Creative Commons,  
<https://flic.kr/p/9Qxh84>

a single incident of criminal activity, regardless of whether the activity occurred on or off the property.”<sup>4</sup> Such addenda may not include exceptions for victims of domestic violence or other crimes.<sup>5</sup> Furthermore, crime-free lease addenda may require eviction in instances of arrest, rather than conviction, a policy which can raise fair housing concerns given the racial disparities in arrests across the United States.

## Research

Studies and reports have underscored the detrimental impacts of nuisance and crime-free ordinances. For example, researchers Matthew Desmond (author of the bestselling book *Evicted*) and Nicol Valdez conducted a study examining nuisance citations in Milwaukee, WI, and found

survivors of domestic violence were forced to choose between their homes and their safety.<sup>6</sup> The study further observed that women from African-American neighborhoods disproportionately faced this impossible choice. A recent report examining nuisance and crime-free ordinances in northeast Ohio also outlined how such ordinances can impact renters (including Section 8 voucher holders), communities of color, domestic violence survivors, and persons with disabilities.<sup>7</sup>

## Legal Challenges

Several lawsuits have challenged nuisance ordinances, with the American Civil Liberties Union (ACLU) leading the charge. In one example, the ACLU sued Norristown, PA for enforcement

of the local nuisance ordinance against a survivor of domestic violence, Lakisha Briggs.<sup>8</sup> Ms. Briggs, a Section 8 voucher holder, was threatened with eviction because at the time, local law authorized the revocation or suspension of a landlord’s rental license where the police were summoned three times (“three strikes”) in four months due to “disorderly behavior.” After a series of calls to law enforcement due to the actions of Ms. Briggs’ abuser, police began considering these calls “strikes.” In turn, Ms. Briggs was afraid to call the police.

Eventually, in one incident, Ms. Briggs sustained life-threatening injuries, and had to be hospitalized. Because a neighbor called the police, her landlord informed her that she was being forced to evict her.

Norristown made changes to its nuisance law that failed to address the law's harmful effects, and the lawsuit was filed. Additionally, the U.S. Department of Housing and Urban Development (HUD) issued its own complaint, alleging sex discrimination in violation of the Fair Housing Act because of the ordinance's impact on female survivors of domestic violence. The lawsuit and the HUD complaint were settled. As part of the lawsuit settlement, the problematic ordinance was repealed.<sup>9</sup> In 2016, the city of Surprise, AZ repealed its nuisance ordinance after the ACLU brought a similar lawsuit on behalf of a domestic violence survivor.<sup>10</sup>

### Recent HUD Guidance

In 2016, HUD issued two important guidance documents. The first outlines how adverse housing decisions based on criminal history should be analyzed using the Fair Housing Act.<sup>11</sup> For example, the guidance explains fair housing issues can be raised by policies such as banning all tenants with criminal records regardless of circumstances (e.g., length of time that has passed, type of crime) or basing housing denials on arrests alone.<sup>12</sup> The guidance acknowledges the racial and ethnic disparities in arrests, convictions, and incarceration in the United States.<sup>13</sup>

The second document addresses the issue of nuisance and crime-free ordinances, and how to analyze them using the Fair Housing Act.<sup>14</sup> The guidance focuses on how these ordinances may give rise to claims of sex discrimination in violation of the Fair Housing Act because the overwhelming number of domestic violence survivors are women. HUD states that nuisance and crime-free ordinances are "becoming an additional factor that operates to discourage victims from reporting domestic violence and obtaining the emergency police and medical assistance they need."<sup>15</sup> HUD also notes that "[o]ne step a local government may take toward meeting its duty to affirmatively further fair housing is to eliminate disparities by repealing a nuisance or crime-free ordinance that requires or encourages evictions for use of emergency services, including 911 calls, by domestic violence or other crime victims."<sup>16</sup>

*Studies and reports have underscored the detrimental impacts of nuisance and crime-free ordinances.*



Photo courtesy of High Plains Fair Housing Center

## Case Study: Crime-Free Issues in California's Inland Empire

In the Inland Empire region of southern California, the Inland Fair Housing and Mediation Board (IFHMB)<sup>17</sup> is working to educate housing providers, social service organizations, and homeless service providers about HUD's guidance on this issue. IFHMB especially sees a tenant's criminal background come into play when trying to house homeless people, many of whom have criminal histories because they have received citations for violating "no camping" ordinances by sleeping in city parks. IFHMB has found that while some housing providers are willing to rent to homeless individuals who are, for example, in a rapid rehousing program where a portion (or all) of the rent is subsidized, they charge extra fees, or "special deposits" in connection with the rental transaction. Thus, IFHMB's fair housing training on this topic highlights the fact that if discrimination based on a person's criminal background is illegal, charging extra fees or special deposits is also illegal.

An IFHMB review of leases and addenda used at local "crime-free" properties found that most do not adequately address domestic violence or other instances where a tenant, through no fault of their own, is the victim of a crime. Many landlords, owners, and property managers are unaware of the need for such exceptions to crime-free provisions. In addition, nearly all the lease provisions IFHMB reviewed used arrest, rather than conviction, as the determinative factor regarding a lease violation that would result in immediate eviction, and a "preponderance of the evidence" standard upon which to base their conclusion that such an offense has occurred.

IFHMB's enforcement activities around this issue involve intake and investigation of complaints of housing discrimination relating to local crime-free ordinances and lease terms. In one such case, the prospective tenant was denied housing based on a nine-year-old traffic violation that resulted in a "failure to appear" citation. The tenant, who is African-American, was told that

local crime-free ordinances and the terms of the crime-free lease addendum required the housing provider to deny her rental application. The apartment complex was in a predominantly white neighborhood, and the tenant believed the denial of housing based on her "criminal" background was a pretext for discrimination based on her race. When the efforts of IFHMB's fair housing staff to educate the housing provider and mediate the dispute proved unsuccessful, IFHMB assisted the tenant with filing an administrative complaint with HUD.

## Looking Forward

Education of the public, housing advocates, housing providers, and state and local government officials will be key to increasing awareness around this issue. For example, training and education for law enforcement and housing providers can help improve understanding of the dynamics of domestic violence. These various stakeholders would also benefit from understanding how enforcement of overly broad nuisance and crime-free ordinances can have dire consequences for groups such as domestic violence survivors, or may otherwise violate fair housing law.

Furthermore, there have been changes regarding laws at the state level. States such as Iowa,<sup>18</sup> Illinois,<sup>19</sup> Minnesota,<sup>20</sup> and Pennsylvania<sup>21</sup> have laws in place that offer protections for domestic violence survivors and other individuals seeking emergency assistance. California is currently considering a bill that would substantially strengthen its existing protections<sup>22</sup> under state law. Residents and advocates across the country should take note of these recent developments and evaluate how nuisance and crime-free ordinances are raising fair housing issues in their communities.

*Renee Williams is a Staff Attorney at the National Housing Law Project and Marie Flannery is President and Chief Executive Officer at Inland Fair Housing and Mediation Board.*

## Endnotes

1. The American Civil Liberties Union (ACLU) has a website with a wealth of resources on this issue, available at <https://www.aclu.org/other/i-am-not-nuisance-local-ordinances-punish-victims-crime>. See also Emily Werth, Sargent Shriver National Center on Poverty Law, *The Cost of Being “Crime Free”: Legal and Practical Consequences of Crime Free Rental Housing and Nuisance Property Ordinances* (Aug. 2013), <http://www.povertylaw.org/files/docs/cost-of-being-crime-free.pdf>.
2. U.S. Department of Housing and Urban Development (HUD), *Office of General Counsel Guidance on Application of Fair Housing Act Standards to the Enforcement of Local Nuisance and Crime-Free Housing Ordinances Against Victims of Domestic Violence, Other Crime Victims, and Others Who Require Police or Emergency Services*, pp. 2–3 (Sept. 13, 2016), <https://www.hud.gov/sites/documents/FINALNUISANCEORDGDNCE.PDF> (HUD Nuisance Guidance).
3. HUD Nuisance Guidance, p. 6.
4. HUD Nuisance Guidance, p. 5.
5. HUD Nuisance Guidance, p. 6.
6. Unpolicing the Urban Poor: Consequences of Third-Party Policing for Inner-City Women, *American Sociological Review* Vol. 78, p. 137 (2013), [https://scholar.harvard.edu/files/mdesmond/files/desmond.valdez.unpolicing.asr\\_o.pdf](https://scholar.harvard.edu/files/mdesmond/files/desmond.valdez.unpolicing.asr_o.pdf).
7. See generally Joseph Mead and Elizabeth Bonham, *Who Is a Nuisance? Criminal Activity Nuisance Ordinances in Ohio* (Nov. 2017), [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3067028](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3067028).
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9. ACLU, Press Release, “Norristown Will Pay \$495,000 to Settle Case on Behalf of Woman Threatened with Eviction for Calling Police” (Sept. 8, 2014), <https://www.aclu.org/news/pennsylvania-city-agrees-repeal-law-jeopardizes-safety-domestic-violence-survivors>.
10. ACLU, Press Release, “Surprise, Ariz., Can No Longer Threaten Crime Victims with Eviction for Calling Police,” (Mar. 21, 2016), <https://www.aclu.org/news/arizona-city-repeals-nuisance-law-challenged-aclu-behalf-domestic-violence-survivor>.
11. HUD, *Office of General Counsel Guidance on Application of Fair Housing Act Standards to the Use of Criminal Records by Providers of Housing and Real Estate-Related Transactions* (Apr. 4, 2016), [https://www.hud.gov/sites/documents/HUD\\_OGCGUIDAPPFHASTANDCR.PDF](https://www.hud.gov/sites/documents/HUD_OGCGUIDAPPFHASTANDCR.PDF) (HUD Criminal Records Guidance).
12. HUD Criminal Records Guidance, pp. 5–7.
13. HUD Criminal Records Guidance, p. 2.
14. See generally HUD Nuisance Guidance, p. 2.
15. HUD Nuisance Guidance, p. 5.
16. HUD Nuisance Guidance, pp. 12–13.
17. Inland Fair Housing and Mediation Board is a California-based, nonprofit fair housing organization that has, since 1980, served San Bernardino County and parts of Riverside and Imperial Counties. For more information, see <http://www.ifhmb.com/home/about/>.
18. Iowa Code Ann. § 562A.27B; Iowa Code Ann. § 562B.25B; Iowa Code Ann. § 331.304(11); Iowa Code Ann. § 364.3(11).
19. 65 Ill. Comp. Stat. Ann. 5/1–2–1.5; 55 Ill. Comp. Stat. Ann. 5/5–1005.10.
20. Minn. Stat. Ann. § 504B.205.
21. 53 Pa. Cons. Stat. Ann. § 304.
22. Cal. Gov. Code § 53165. The current bill (AB 2413) is being co-sponsored by the National Housing Law Project.



# Fighting Hate with Fair Housing Laws

The recent increase in hate crimes includes housing-related hate activity, which can have criminal or civil remedies.

*Editor's note:  
The following is  
excerpted, with  
permission, from  
the National  
Fair Housing  
Alliance's 2017  
Fair Housing  
Trends Report.*

Since the fall of 2016, there has been a notable increase in the number of hate- or bias-related incidents occurring across the country. In March 2017, in Connecticut, for example, an interracial couple awoke to find their garage spray painted with the n-word. A family in Silver Spring, Maryland, found a swastika and a hateful note on their doorstep after displaying a "Black Lives Matter" sign on their front lawn. The Fair Housing Advocates of Northern California reported a 90-year old disabled client who alleged that her housing provider called her "a filthy, dirty Muslim woman who wished this country harm," before receiving a notice to terminate her tenancy.

There are hundreds of documented examples of this type of vandalism, harassment, and hate-motivated activity in the months since the 2016 presidential election alone. The Southern Poverty Law Center, in the first month following the election, received 1,094 reports of bias-related crimes; 134 of these were reported at private residences, raising housing discrimination concerns.

In addition to its prohibitions against housing discrimination, the federal Fair Housing Act also makes it unlawful to injure, intimidate, or interfere with any person in the exercise or enjoyment of his or her fair housing rights (42 U.S.C. § 3631). We refer to such behavior as "housing-related hate activity." This term encompasses all activity that may coerce,

intimidate, threaten, injure or interfere with persons attempting to exercise and enjoy their fair housing rights. Such activity includes hate crimes, even if the behavior is not ultimately prosecuted as a hate crime. Civil remedies in housing-related hate activity cases include injunctive relief, compensation for financial loss, and monetary compensation for injury, including emotional distress.

While the Fair Housing Act is a civil law, a separate provision of the U.S. Code imposes criminal penalties for housing-related hate activity. 42 U.S.C. § 3631 provides criminal penalties, including fines and prison time, for housing-related hate activity. Injunctive relief may also be awarded.

Housing-related hate activity includes acts of violence, threats, property damage or other conduct directed against people because of their race, color, ethnicity, religion, gender, disability, or because they have children. Housing-related hate activity can be expressed against an individual, family or entire group of people in or near their home or at a neighborhood-based institution, such as a school or religious facility. Examples of hate activity include persistent bullying and name-calling, racist or other bias-motivated graffiti or literature, vandalism, and other personal and property violence. While fair housing organizations have always dealt with housing-related hate and harassment, it is more imperative than ever that the fair housing





Photo courtesy of High Plains Fair Housing Center

community proactively educate communities about how fair housing laws protect those who have become increasingly vulnerable to this type of treatment.

...

In 2016, approximately 23 percent of private fair housing organizations reported complaints of harassment or housing-related hate activity on the basis of national origin, religion, race or sexual orientation. That number would be much higher except that many cases that could have been treated as violations for the Fair Housing Act, such as those captured by the ADC, are typically referred only to local or federal law enforcement channels, not to fair housing agencies. Fair housing organizations have the opportunity now to expand their education and outreach efforts, and liaise with civil rights groups such as ADC and

their local affiliates to better meet the needs of communities vulnerable to housing-related hate and harassment.

#### **Why is it Important to Address Hate with Fair Housing Laws?**

Under the Fair Housing Act, victims of hate activity have the opportunity to obtain additional relief from extremely stressful and harmful situations. For example, in August 2016, the Chicago Lawyers' Committee for Civil Rights announced the settlement of *Howe v. Calliari*, a discrimination case filed in the Circuit Court of Cook County. The case alleged that a neighbor harassed and stalked two African-American teenagers and their mother and repeatedly called them the n-word in suburban Mt. Prospect. The terms provide for a confidential but substantial sum of momentary relief and an in-court apology. Fair housing organizations can also provide support to victims

and help them pursue their rights. They can help advocate for the victim by generating media attention and public support, coordinating with law enforcement, and in pursuing enforcement of their rights under the law.

The vast majority of housing discrimination acts go undetected and unreported and, while housing-related hate activity is more blatant and obvious than most other types of housing discrimination, many victims only report it to law enforcement, if they take any action at all. However, there are other mechanisms in place to stop housing-related hate and harassment and to bring justice to those afflicted. It is imperative that fair housing organizations continue to advocate, educate, and take actions using fair housing laws to meet the increasing need across the country to address housing-related hate.

# Fighting Hate in North Dakota

by Michelle Rydz

A statewide coalition supports victims of hate crimes, including crimes that are related to housing.

The incidence of hate speech and hate crimes in North Dakota has increased in the past several years. Many of these episodes have made national headlines. In 2013, Craig Cobb purchased many properties in the town of Leith, near Standing Rock tribal lands, with the intention of creating a white supremacist stronghold. While he has since moved from Leith after protests erupted, several other prominent white supremacists continue to live there.

In 2017, a bill was written that would have allowed a local government to seek a moratorium on refugee resettlement if it lacked “absorptive capacity,” meaning the ability of community and government services to meet residents’ needs. The governor would have also been able to issue a statewide moratorium with an executive order.

Luckily, the bill was weakened and reduced to a study examining the costs incurred by resettling refugees in communities, but it is indicative of a vocal minority that is intolerant of immigrants and refugees.

High Plains Fair Housing Center, with a mission of fighting housing discrimination through education, outreach and enforcement, has created a statewide coalition, North Dakota United Against Hate, to address hate speech and hate crimes. High Plains partnered with the Afro American Development Association, whose mission is empowering new Americans to integrate and thrive in the Fargo–Morehead area, and the North Dakota Human Rights Coalition, whose mission is to advocate for human rights. Together, these three organizations created a







comprehensive response system for victims to provide legal, emotional, and sometimes financial support. As a result, people are not afraid to speak up and report hate crimes or hate speech and they feel confident that they will be heard.

In the past year, one Somali family was forced to move from their apartment because of verbal and physical threats by two neighbors. The family was repeatedly told to “go back to where you came from” and asked, “What are you hiding in the hijab?” The verbal abuse turned into physical threats and damage to their vehicle. High Plains Fair Housing and North Dakota United Against Hate worked with the landlords and the Somali family to get them moved to a safe location.

The coalition takes the approach that sunshine is antiseptic, so we

publicize hate crimes and hate speech as often as possible. We gather people, march, and rally to demonstrate that hate activity is not tolerated in our community. North Dakota United Against Hate has held several meetings and rallies, making sure to involve the community in the events, and at our summertime rally, over 200 people turned up to show their support. By increasing awareness of the prevalence of these issues and building partnerships, North Dakota United Against Hate is getting closer to its goal to stop hate.

*Michelle Rydz is the Executive Director of High Plains Fair Housing Center in North Dakota.*





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HAC hosted a three-part series of webinars focused on financing farm labor housing using Section 514/516 funding. The series took attendees through the process of using Section 514/516 funding, from preparing the pre-application, to final application and closing, and finally construction and lease-up. The presentation materials and video recordings of each webinar are available on HAC's website.



For more information, visit :

[www.ruralhome.org/farmlaborwebinars](http://www.ruralhome.org/farmlaborwebinars)

## HUD AWARDS \$1 MILLION TO THE HOUSING ASSISTANCE COUNCIL

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The Department of Housing and Urban Development (HUD) just announced a \$1 million Rural Capacity Building award to the Housing Assistance Council. HAC will leverage its \$1 million award with private investments to assist nearly 20 rural communities create, preserve, repair or rehabilitate a projected 750 units of housing and support 600 jobs.



For more information, visit :

[www.ruralhome.org/rcbaward2018](http://www.ruralhome.org/rcbaward2018)

## NATIVE AMERICAN MORTGAGE STUDY

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A new HAC report, *Exploring the Challenges and Opportunities for Mortgage Finance in Indian Country*, examines mortgage lending to American Indian and Alaska Natives particularly activity on federally recognized reservation lands. The analysis touches on the historic and social factors that have helped create the constrained mortgage lending environment on reservation lands. A review of mortgage lending data for Native American borrowers confirms activity is constrained on reservations. Such activity includes low origination rates, high denial rates, and a high proportion of loans made for manufactured homes.



For more information, visit :

[www.ruralhome.org/namortgagereport](http://www.ruralhome.org/namortgagereport)



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